

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Hearing Date: January 18, 2019
Time: 10:00 a.m.

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IN RE:

Chapter 11
Case No. 18-23538 (RDD)
(Jointly Administered)

SEARS HOLDING CORPORATION, et. al.,

Debtors.

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NOTICE OF HEARING

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

PLEASE TAKE NOTICE that, upon the annexed Application of Anthony Scullari, a Creditor in this action, by his attorney Richard A. Klass, Esq., dated December 10, 2018, Creditor will move this Court before the Hon. Robert D. Drain, at the Courthouse located at 300 Quarropas Street, White Plains NY 10601, on January 18, 2019, at 10:00 a.m., or as soon thereafter as counsel may be heard, for an Order:

a) pursuant to 11 U.S.C. §362(d), terminating, lifting and modifying the automatic stay arising from the filing of Debtor's petition, insofar as the said stay prohibits Anthony Scullari, a Creditor herein, from proceeding with his personal injury action pending against Debtor Kmart Corporation in the Supreme Court of the State of New York, County of New York (Index No. 159054/2015), and any potential appeals therefrom, for all purposes including determining the extent of Debtor Kmart Corporation's liability therefor; or

b) in the alternative, pursuant to 11 U.S.C. §362(d), terminating, lifting and modifying the automatic stay arising from the filing of Debtor's petition, insofar as the said stay prohibits Anthony Scullari, a Creditor herein, from proceeding with his personal injury action pending against Debtor Kmart Corporation in the Supreme Court of the State of New York, County of New York (Index No. 159054/2015), and any potential appeals therefrom, for all purposes including determining the extent of Debtor Kmart Corporation's liability therefor, to recover solely from Debtor's either/both insurance policy and/or self-funded insurance reserves; or


c) in the alternative, pursuant to 11 U.S.C. §362(d), terminating, lifting and modifying the automatic stay arising from the filing of Debtor's petition, insofar as the said stay prohibits Anthony Scullari, a Creditor herein, from severing the causes of action against Debtor Kmart Corporation and proceeding with his personal injury action pending against the other parties defendant in the Supreme Court of the State of New York, County of New York (Index No. 159054/2015); and

d) granting such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that any responses or objections (the "Objections") to the Motion shall be in writing, shall conform to the Bankruptcy Rules and the Local Rules, shall be filed with the Bankruptcy Court (a) by attorneys practicing in the Bankruptcy Court, including attorneys admitted pro hac vice, electronically in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov), and (b) by all other parties in interest, on a CD-ROM, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and shall be served in accordance with the *Amended Order Implementing Certain Notice and Case Management Procedures*, entered on November 1, 2018 (ECF No. 405) (the "Amended Case Management Order"), so as to be filed and received no later than January 11, 2019 at 4:00 p.m. (Eastern Time) (the "Objection Deadline") upon the undersigned and the parties entitled to notice thereof.

PLEASE TAKE FURTHER NOTICE that, if no Objections are timely filed and served with respect to the Motion, the relief requested may be granted without a hearing.

Dated: Brooklyn, New York
December 10, 2018


/s/

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